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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,161	10/20/2003	Krzysztof Mosiewicz	67274	6391

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FITCH EVEN TABIN & FLANNERY
120 S. LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

PETERSON, KENNETH E

ART UNIT PAPER NUMBER

3724

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/689,161	Applicant(s) MOSIEWICZ ET AL.	
	Examiner Kenneth E. Peterson	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 2-10, 12-21 and 26-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6feb04 17mar05</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election without traverse of group VI in the reply filed on 21 November 05 is acknowledged.

Claims 2-10,12-21,26-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim.

2. The abstract of the disclosure is objected to because it is over 150 words. Correction is required. See MPEP § 608.01(b).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bell et al.'508, who shows an ultrasonic cutter with all of the recited limitations including a conveyor (line 34, column 4), a frame and carriage (e.g. figure 1), and a two edged blade (figure 8A) that is capable of cutting in either direction.

5. Claims 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Pilkington '495, who shows an ultrasonic cutter with all of the recited limitations including a dual edged blade (54) that is about 90 degrees as seen in figure 6. The base is thicker as best seen in figure 3. Pilkington's blade vibrates at 20 kHz (lines 28-

30, column 4). Pilkington is capable of cutting cheese at the claimed rates. It may not be pretty, but Examiner is of the opinion that it is capable of cutting cheese 2.5 inches thick.

6. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Davison '957, who shows an ultrasonic cutter with all of the recited limitations including a dual edged blade (figure 4) that is about 80 degrees. The base is thicker than the cutting portion as seen in figure 4.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davison, who shows an ultrasonic cutting blade with most of the recited limitations as set forth above.

Davison does not mention at what frequency his blade is oscillated. Examiner takes Official Notice that it is old and well known to oscillate this type of blade at 20 kHz. For example, see the reference to Cimino '377 (paragraph 004). It would have been obvious to one of ordinary skill in the art to have oscillated Davison's blade at 20 kHz, as is well known and taught by Cimino, in order to achieve the desired cutting.

Davison is capable of cutting cheese at the claimed rates and thicknesses, even though it might get ugly.

9. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pilkington '495, who shows an ultrasonic cutting blade with most of the recited limitations as set forth above.

Pilkington lacks a conveyor. However, it is well known for this type of cutter to have a conveyor. Numerous patents show this feature, one example of which is the patent to Pearl '113. It would have been obvious to one of ordinary skill in the art to have provided Pilkington with a conveyor, as is well known and taught by Pearl, in order to be able to automatically convey the sheets to the cutter.

10. Made of record but not relied on are patents to Oldeman and Keesling showing pertinent cutters.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 571-272-4512. The examiner can normally be reached Mon-Thurs, 7:30AM-5PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KP

December 30, 2005



KENNETH E. PETERSON
PRIMARY EXAMINER